

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Michael Krichevsky

Case No. 22-71045-AST

Chapter 11

Debtor.

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**ORDER GRANTING MOTIONS FOR CIVIL CONTEMPT, FOR INJUNCTIVE
RELIEF AND TO QUASH SUBPOENAS FILED BY THE DEBTOR**

WHEREAS, on June 15, 2022, the Court entered its Contested Matter Scheduling Order [Dkt. Item 286], which set forth the procedures with respect to certain motions pending before the Court and to be heard on July 18, 2022, at 10:00 a.m. ET; and

WHEREAS, on June 30, 2022, the Court entered its Amended Contested Matter Scheduling Order [Dkt. Item 294], adjourning the July 18, 2022, hearing to July 28, 2022, at 1:00 p.m. ET; and

WHEREAS, on July 22, 2022, Select Portfolio Servicing, Inc. as servicer for U.S. Bank NA, successor trustee to Bank of America, NA, successor in interest to LaSalle Bank NA, on behalf of the holders of the WaMu Mortgage Pass-Through Certificates, Series 2005-AR15 (“SPS”) filed its Emergency Motion On Shortened Notice For a Civil Contempt, For a Permanent Injunction, to Quash Subpoenas Filed by the Debtor on July 21, 2022 and for Shortened Notice (the “SPS Motion”) [Dkt. Item 310] in connection with trial subpoenas purportedly served on Shari Barak, Esq. [Dkt. Item 306] and Robert W. Griswold, Esq. [Dkt. Item 308], both counsel of record for SPS; and

WHEREAS, on July 25, 2022, Wells Fargo Bank, N.A. (“Wells Fargo”), as Servicing Agent for U.S. Bank National Association, as Trustee for Banc of America Funding Corporation Mortgage Pass-Through Certificates, Series 2006-F, and the Bank Defendants (as defined therein) filed their motion to join the SPS Motion (the “WF Motion”) [Dkt. Items 315, 316] in connection with a trial subpoena purportedly served on James N. Faller, Esq. [Dkt. Item 307], counsel of record for Wells Fargo and the Bank Defendants; and

WHEREAS, on July 27, 2022, Elipiniki M. Bechakas, Esq. (“Bechakas”) filed her Emergency Motion on Shortened Notice to Quash Subpoena Filed by the Debtor on July 25, 2022, and For Shortened Notice (the “Bechakas Motion” and, together with the SPS Motion and the WF Motion, the “Contempt Motions”) [Dkt. No. 319] in connection with a trial subpoena purportedly relating to Bechakas [Dkt. No. 312] as a non-party in the bankruptcy proceeding; and

WHEREAS, on July 28, 2022, the Court held a hearing (the “Hearing”) on, among other things, the Contempt Motions, at which SPS, Wells Fargo and the Bank Defendants, and Bechakas appeared through their respective counsel of record and were heard on the Contempt Motions; and

WHEREAS, Michael Krichevsky (the “Debtor”) failed to appear at the Hearing; and

WHEREAS, oral argument having taken place at the Hearing, and all parties were given an opportunity to be heard and all submissions considered; and

NOW THEREFORE, after due deliberation and for the reasons stated on the record at the Hearing, it is hereby

ORDERED, that the Contempt Motions are granted to the extent set forth herein and for the reasons set forth on the record at the Hearing; and it is further

ORDERED, that the subpoenas served or purported to be served on counsel of record Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq., and on non-party Elipiniki M. Bechakas, Esq., are quashed; and it is further

ORDERED, that Debtor is in contempt of the Court's May 28, 2021, Order [Dkt. Item 124] and June 15, 2021, Order [Dkt. Item 146] for the attempted personal service of subpoenas on counsel of record Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq.; and it is further

ORDERED, that, as an initial sanction for the aforementioned contempt, **within thirty (30) days of entry of this Order, Debtor shall remit to each of Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq. payment in the amount of \$500.00 in the form of a money order or bank check,** which payment shall be MAILED to the respective office of Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq., as indicated on the Court's docket in this case; and it is further;

ORDERED, that, without prejudice to the proscriptions in place in the May 28, 2021, and June 15, 2021, Orders, **Debtor is temporarily restrained from serving or delivering subpoenas, process or any other filing or correspondence in connection with this case to, or otherwise personally appearing at, the residences of Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq.;** and it is further

ORDERED, that the July 28, 2022, hearing is **continued to August 30, 2022, at 10:00 a.m. ET for the consideration of additional sanctions against Debtor** (the “Continued Hearing”); and it is further


ORDERED, that, at the Continued Hearing, Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq. may proffer to the Court supplemental submissions in support of further sanctions to be imposed on the Debtor for his contempt of the May 28, 2021, and June 15, 2021, Orders; and it is further

ORDERED, that Shari Barak, Esq., Robert Griswold, Esq. and James N. Faller, Esq. have **until August 11, 2022**, to submit supplemental pleadings requesting that the TRO be extended through the Continued Hearing; and it is further

ORDERED, that the Court reserves jurisdiction to rule on the balance of the Contempt Motions and further sanctions in connection therewith, including dismissing the above-captioned bankruptcy case with prejudice.

Dated: August 8, 2022
Central Islip, New York




Alan S. Trust
Chief United States Bankruptcy Judge